



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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### CONTENTS

*Page*

#### GENERAL NOTICE

No. 390 Oranjemud Town: Business Registration Regulations: Local Authorities Act, 1992 ..... 1

## General Notice

### ORANJEMUD TOWN

No. 390

2013

#### BUSINESS REGISTRATION REGULATIONS: LOCAL AUTHORITIES ACT, 1992

The Town Council of Oranjemund has, under section 94(1) of the Local Authorities Act, 1992 (Act No. 23 of 1992), after consultation with the Minister of Regional and Local Government, Housing and Rural Development, made the regulations set out in the Schedule.

**TOIVO ETEGAMENO ANGULA**  
**CHAIRPERSON OF THE COUNCIL ORANJEMUND**  
**BY ORDER OF THE COUNCIL**

#### SCHEDULE

#### ARRANGEMENT OF REGULATIONS

1. Definitions
2. Prohibition on conducting business without authorisation
3. Application for certificate of fitness
4. Publication of notice in respect of noxious business
5. Issuing of certificate of fitness and validity of certificate
6. Application for certificate of registration
7. Issuing of certificate of registration and validity of certificate
8. Temporary certificates of fitness and registration

9. Display of certificate of registration and certificate of fitness
10. Application for renewal of certificate of fitness or certificate of registration
11. Duplicate certificates
12. Transferability of certificates
13. Alteration of premises or nature of business
14. Change of ownership of business
15. Cessation of business
16. Access to premises
17. Compliance notice
18. Duties of holders of certificates
19. Notices
20. Keeping of register
21. Appeals
22. Offences and penalties

### **Definitions**

1. In these regulations a word or an expression to which a meaning has been assigned in the Act bears that meaning, and unless the context otherwise indicates -

“business” means any profession, occupation, trade, undertaking service, industry or activity conducted for gain;

“business premises” means any land, building, structure or any portion of a building or structure or any conveyance used or intended to be used for purposes of conducting business;

“certificate of fitness” means a certificate of fitness issued in terms of regulation 5 in respect of a business premises;

“certificate of registration” means a certificate of registration issued in terms of regulation 7 in respect of the conducting of a business on a business premises;

“Council” means the Town Council of Oranjemund;

“environmental health officer” means a person appointed by the Council as an environmental health officer;

“fee” means the charges, fees and monies determined by the Council in terms of section 30(1)(u) of the Act;

“holder of certificate of fitness” means the person issued with a certificate of fitness;

“local authority area” means the local authority area of the Town of Oranjemund;

“noxious business” means -

- (a) chemical works, paint works, breweries and distilleries, sugar mills and sugar refineries, manure, super phosphate or fertilizer works or premises used for storing, drying preserving or other treatment of bones, horns or hoofs, premises used for the storing, sorting or treatment of hides and skins, other than in dry an inoffensive condition, abattoirs, glue or size factories, entrails scraping and tripe boiling works; soap or candle works, fat and dripping works and any other similar work; where meat, bones, blood, offal lobster or fish processing works, fish pickling or rock-lobster and fish canning trades, whaling stations, premises or trades used for the storing or handling and processing of material originating from fish, whales and seals, paper-mills or paper factories, wattle-bark grinding or extract factories, destructors, depositing sites or other sites for the disposal or processing of domestic refuse, trade refuse,

street refuse, sewerage or night soil, lead melting works, oil refineries and other trade in connection with the processing of by-products or petroleum refining, paint and varnish works, quarries, asbestos cement, bricks and lime works, metallurgical works, reduction and reprocessing works; and

(b) business declared by the Council to be noxious business in terms of regulation 2(2)(b);

“registration officer” means a staff member of the Council authorised by the Council to consider applications for, and to issue certificates of registration;

“the Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992);

“town planning scheme” means the Oranjemund town planning scheme prepared in terms of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954).

### **Prohibition on conducting business without authorisation**

2. (1) A person may not conduct a business in the local authority area, unless a -

(a) certificate of registration; and

(b) certificate of fitness,

has been issued for the conducting of business and in respect of the business premises.

(2) The Council may, for the purpose of these regulations, declare -

(a) certain areas to be areas within which the conducting of certain businesses is prohibited; and

(b) a certain business to be a noxious business.

(3) A person may not conduct a business in an area declared under subregulation (2)(a) as a prohibited area.

(4) A person who fails to comply with subregulation (1) or (3) commits an offence.

### **Applications for certificate of fitness**

3. (1) An application for a certificate of fitness must be made on the form provided by the Council, and -

(a) be submitted to the environmental health officer for consideration;

(b) be accompanied by the appropriate fee;

(c) be accompanied by such other information as the environmental health officer may consider necessary for purposes of making a decision in terms of regulation (5); and

(d) where an application for a certificate of fitness is made for the conducting of a noxious business, be accompanied by particulars relating to -

(i) the nature of the noxious business to be conducted;

(ii) the nature of materials or goods to be sold, if any;

- (iii) any processing of goods or materials;
- (iv) the equipment to be installed or used on the business premises, including the number, type and capacity of each piece of equipment used in the conducting of the noxious business;
- (v) the measures to be taken for purposes of minimising public nuisance and for the disposal of waste;
- (vi) an environmental impact assessment undertaken in relation to the noxious business to be conducted on the business premises; and
- (vii) proof of publication of the notice referred to in regulation 4.

(2) A certificate of fitness must be obtained in respect of each business premises on which business is to be conducted.

(3) A person who furnishes incorrect or false information or particulars in terms of this regulation commits an offence.

#### **Publication of notice in respect of noxious business**

4. (1) A person who intends to conduct a noxious business within the local authority area must, in addition to the application for a certificate of fitness referred to in regulation 3, cause a notice to be published in a newspaper circulating in the town area -

- (a) stating the nature of the noxious business to be conducted;
- (b) stating an application for a certificate of fitness has been made to the environmental health officer;
- (c) indicating the business premises from which the noxious business is to be conducted;
- (d) stating whether any environmental impact assessment has been undertaken in relation to the noxious business to be conducted on the business premises and the outcome, if any, of the assessment;
- (e) indicating the place at which and the times and dates during which the application and any documentation in support of the application may be inspected; and
- (f) calling upon persons to lodge, with the environmental health officer, objections to the granting of the application, which objections must be lodged by a date being not less than 14 days from the date of publication of such notice.

(2) Where an objection is lodged in terms of subregulation (1) the environmental health officer must -

- (a) within 7 days from the date referred to in paragraph (f) of that subregulation give notice to the applicant of the objections lodged; and
- (b) call upon applicant or his or her representative, to make, within 7 days from the date of the notice referred to in paragraph (a), written representation against the objections, if any, in support of the application.

**Issuing of certificate of fitness and validity of certificate**

**5.** (1) The environmental health officer must, when considering an application for a certificate of fitness and any objections or regulation 4, if applicable, and may-

- (a) grant the application and issue the certificate of fitness; or
- (b) refuse the application and within 7 days provide the applicant with written reasons for the refusal.

(2) The environmental health officer must, when considering an application for certificate of fitness, take into account -

- (a) whether the conducting of the type of business applied for on the business premises is in conflict with any laws relating to building and public health and safety or is in conflict with any town planning scheme or condition of establishment of a township, applicable to that premises;
- (b) any objection raised or representation made in pursuance of a notice published under regulation 4;
- (c) any representations made in support of the application; and
- (d) whether the provisions of regulation 3 and where applicable regulation 4 have been complied with.

(3) A certificate of fitness issued in terms of this regulation is valid for a period of one year from the date of issue or until such time that -

- (a) the structure of the premises, in respect of which the certificate of fitness is issued, is altered; or
- (b) the nature of the business premises for which a certificate of fitness is issued changes in any way, whichever occurs first.

(4) The holder of a certificate of fitness must before the date of expiry of the certificate, apply to the environmental health officer for a renewal of the certificate in the manner provided in regulation 10.

**Application for certificate of registration**

**6.** An application for a certificate of registration must be made on the form provided by the Council, and be -

- (a) submitted to the registration officer for consideration;
- (b) accompanied by the appropriate fee;
- (c) accompanied by a certified copy of a valid certificate of fitness issued in terms of regulation 5; and
- (d) accompanied by such other information as the registration officer may consider necessary for purposes of making a decision in terms of regulation 7.

**Issuing of certificate of registration and validity of certificate**

7. (1) The registration officer must consider the application for certificate of registration and may -

- (a) grant the application and issue the certification of registration; or
- (b) refuse the application and within 7 days provide the applicant with written reasons for the refusal.

(2) The registration officer must, when considering an application for a certificate of registration -

- (a) satisfy himself or herself that the conditions imposed by the environmental health officer and endorsed upon the certificate of fitness issued under regulation 5 have been complied with; and
- (b) take into consideration any objections lodged and any representations made in terms of regulation 4

(3) A person to whom a certificate of registration has been issued may only conduct such business on such business premises for which the certificate of registration is issued.

(4) A certificate of registration issued in terms of this regulation is valid for a period of one year from the date of issue or until such time that -

- (a) the certificate of fitness issued in terms of regulation 5 becomes invalid; or
- (b) the nature of the business for which a certificate of registration is issued changes in any way, whichever occurs first.

(5) The holder of a certificate of registration must before the date of expiry of that certificate apply to the registration officer for a renewal of that certificate in the manner provided in regulation 10.

**Temporary certificates of fitness and registration**

8. (1) A person who intends to conduct a business for a limited period may, on the form provided by the Council for that purpose and upon payment of the applicable fee, apply for a temporary certificate of fitness and a temporary certificate of registration in accordance with regulations 3, 4, 5, 6 and 7.

(2) Where an application referred to in subregulation (1) is granted the environmental health officer must issue to the applicant a temporary certificate of fitness and the registration officer must issue to that applicant a temporary certificate of registration.

(3) The environmental health officer or the registration officer, whichever is applicable, must endorse upon the certificate of fitness or the certificate of registration, as the case may be, the period for which the certificate is valid.

**Display of certificate of registration and certificate of fitness**

9. (1) The certificate of fitness or a certificate of registration issued in respect of a business must be displayed in a conspicuous place at the place of business.

(2) Where a certificate of registration is issued to a person who goes from place to place or who goes to a particular place with goods, wares or merchandise for sale, such person must keep the certificate of registration and certificate of fitness with him at all times while carrying out business and must show the certificate to an inspecting officer if so requested.

#### **Application for renewal of certificate of fitness or certificate of registration**

**10.** (1) An application for the renewal of the certificate of fitness or certificate of registration must be made on the form provided by the Council, to the registration officer or the environmental health officer, within 30 days before the date of expiry of the certificate concerned and be accompanied by the appropriate fee.

(2) Subject to subregulation (3) and (4), on receipt of an application for the renewal of a certificate of fitness or a certificate of registration, the registration officer or the environmental health officer, must renew the certificate concerned and issue to the applicant a certificate of fitness or certificate of registration.

(3) For the purposes of renewing the certificate of fitness or the certificate of registration, the registration officer or the environmental health officer, may require additional information or documents and may refuse to renew the certificate concerned, if the applicant does not provide the information and documents required.

(4) Where the registration officer or the environmental health officer, receives an application for renewal of a certificate of fitness or a certificate of registration and the appropriate fees have been paid, he or she must, before renewing any such certificate -

- (a) ensure that all inspections, approvals and documents as may be required have been obtained;
- (b) make inquiries into all relevant matters in order to ascertain if the applicant is entitled to obtain a renewed certificate under the provisions of this regulation;
- (c) inquire into any and all relevant changes in circumstances since the previous certificate was issued to the applicant; and
- (d) make any inquiries to any staff member who has carried out inspections or investigation relative to the business or business premises concerned.

#### **Duplicate certificates**

**11.** (1) Where a certificate of fitness or a certificate of registration is lost or stolen or is damaged beyond legibility, the person to whom the certificate of fitness or certificate of registration has been issued must, as soon as is reasonable possible after becoming aware of such loss, theft or damage -

- (a) report such loss, theft or damage to the registration officer or the environmental health officer; and
- (b) apply to the registration officer or the environmental health officer, for a duplicate of such certificate of fitness or certificate of registration.

#### **Transferability of certificates**

**12.** (1) A certificate of fitness or a certificate of registration or any right granted under such certificate may not be transferred from one business premises to another business premises or from one person to another or from one business to another business.

(2) Despite subregulation (1), the holder of a certificate of fitness or a certificate of registration may, on the form provided by the Council for that purpose and upon payment of the appropriate fee, apply to the environmental officer of the registration officer, as the case may be, to have -

- (a) the certificate of fitness or the certificate of registration transferred into the name of another person; or
- (b) the name of another business indicated on the applicable certificate of fitness of certificate of registration changed.

(3) Where an application referred to in subregulation 2 is approved the environmental health officer or the registration officer, as the case may be, must cause such changes to be made on the certificate of fitness of certificate of registration, whichever is applicable, and must indicate such changes in the business register of the Council.

#### **Alteration of premises or nature of business**

**13.** (1) Any structural alterations that is to be carried out on a premises in respect of which a certificate of fitness and a certificate of registration is issued, may be carried out with the prior written approval of the Environmental Health Officer and Registration Officer respectively, and regulations 3 and 4 apply with necessary changes to this subregulation.

(2) The nature of a business carried on or the plant or processes used in connection with it in terms of a certificate of registration may be changed by making an application to the Environmental Health Officer for such change, and regulations 3 and 4 apply with necessary changes to such an application.

(3) If the application under subregulation (2) is approved, the applicant is entitled to the issue of a revised certificate of fitness and a certificate of registration.

(4) The issue of a revised certificate of fitness and a certificate of registration in terms of subregulation (3) may only be effected against cancellation of the existing certificate of fitness and certificate of registration.

#### **Change of ownership of business**

**14.** (1) Where the ownership of business in respect of which certificate of registration or certificate of fitness has been issued changes, the owner of the business must return the certificate of fitness and certificate of registration to the registration officer or the environmental health officer.

(2) The new owner of the business contemplated in subregulation (1) must make an application for a certificate of registration or a certificate of fitness in terms of these regulations.

#### **Cessation of business**

**15.** Where the holder of a certificate of registration ceases to conduct the business for which such certificate is issued he or she must, within one month from the date of ceasing to conduct such business, inform the registration officer of such cessation and must submit the certificate of registration to the registration officer for cancellation.

#### **Access to premises**

**16.** For the purpose of enforcing these regulations a staff member authorised for that purpose by the Council may perform the duties or exercise the powers given or conferred under section 91 of the Act.



**Compliance notice**

**17.** (1) If, after inspecting the business premises in terms of section 91 of the Act, the staff member referred to in regulation 16, finds that a contravention of these regulations has occurred, the staff member, must -

- (a) give notice to the holder to the certificate of fitness or certificate of registration, of such failure; and
- (b) call upon the holder of the certificate of fitness or certificate of registration to comply with the requirements of the notice within the time specified in such notice.

**Duties of holders of certificates**

**18.** (1) The holder of a certificate of fitness or a certificate of registration must

- (a) maintain the premises in respect of which a certificate of fitness or a certificate of registration has been issued in a clean and sanitary condition and in good repair; and
- (b) observe and comply with, and ensure the observance and compliance with these regulations and laws relating to public health and safety and the provision of the town planning scheme or condition of the establishment of the township applicable to the premises in respect of which certificate of fitness or a certificate of registration has been issued.

**Notices**

**19.** A notice required or permitted to be given in terms of these regulations must be in accordance with the provision of section 93 of the Act.

**Keeping of register**

**20.** The Council must keep a register in which it must enter particulars relating to every certificate issued in terms of these regulations.

**Appeals**

**21.** (1) A person who is aggrieved by a decision made under these regulations may lodge an appeal with the management committee against that decision in the manner provided for in this regulation.

- (2) An appeal referred to in subregulation (1) must -
  - (a) be lodged with the management committee within 30 days from the date of such decision;
  - (b) be in writing;
  - (c) be in the form approved by the management committee of the Council;
  - (d) indicate the grounds for appeal; and
  - (e) indicate the remedies the applicant is seeking.

(3) Where an appeal is lodged with the management committee by way of electronic transmission the applicant must, within a period of 7 days from the date of the transmission, deliver

or send a hard copy of the appeal together with any representation made in support of the appeal to that committee.

(4) The management committee must, within 30 days from the date of receipt of the appeal, consider the appeal and after hearing oral representations, if any, from the appellant, or the appellant's legal representation, either -

- (a) confirm the appeal;
- (b) refuse the appeal; or
- (c) confirm the appeal subject to such conditions as the management committee may consider appropriate.

(5) The management committee must provide the appellant with written reasons for the decision made under subregulation 4, and must inform Council of its decision.

### **Offences and penalties**

22. (1) A person commits an offence, if that person -

- (a) contravenes or fails to comply with any of these regulations, notice or any condition imposed under it;
- (b) threatens, resists, hinders or obstructs a staff member of the Council in the execution of his or her duties or functions in terms of these regulations;
- (c) in an application for a certificate of fitness or a certificate of registration or a temporary certificate of fitness or a temporary certificate of registration provides false information;
- (d) intentionally gives false or misleading information to a staff member carrying out his or her duties in terms of these regulations; or
- (e) alters or falsifies a certificate of fitness or a certificate of registration or a temporary certificate of fitness or a temporary certificate of registration.

(2) A person convicted of an offence in terms of subregulation (1) is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

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